No. 70-131

Supreme Court, U.S.
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# In The Supreme Court of The United States

OCTOBER TERM, 1971

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SUPREME COURT, U.

PEOPLE OF THE STATE OF CALIFORNIA,

Petitioner,

vs.

ELLER TELECASTING CO. OF ARIZONA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE CALIFORNIA COURT OF APPEAL,
FOURTH APPELLATE DISTRICT,
DIVISION ONE

## PETITION FOR REHEARING

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Attorneys for Petitioner

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1971

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# PETITION FOR REHEARING

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The petitioner herein respectfully moves this Court for an order (1) vacating its denial of the petition for writ of certiorari, entered on October 12, 1971, and (2) granting the petition. As grounds for this motion, petitioner states the following:

## TWO VACANCIES ON THE COURT EXISTED ON THE DATE OF DENIAL, AND TWO JUSTICES VOTED IN FAVOR OF GRANTING CERTIORARI

In order for certiorari to be granted by this Honorable Court, it is necessary that four Justices vote in favor of granting certiorari.

On the date of denial of the petition herein, there existed the extraordinary situation of there being two vacancies on the Court. Mr. Justice White and Mr. Justice Blackmun voted in favor of granting certiorari.

When the two vacancies on the Court are filled, the two new appointees may join Mr. Justice White and Mr. Justice Blackmun in being of the opinion that certiorari should be granted.

Therefore, petitioner respectfully requests that the Court grant rehearing of the order of denial, either before or at the time the two vacancies on the Court are filled, so as to allow the two new Justices to vote on the petition for writ of certiorari. Their affirmative votes would result in the granting of certiorari in this extremely important and timely case.

## CONCLUSION

For the reasons set forth above, as well as those contained in the petition for writ of certiorari, petitioner prays that this Court grant rehearing on the order of denial, vacate that order, grant the petition and review the judgment and opinion below.

Respectfully submitted,

EVELLE J. YOUNGER,
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ALVIN J. KOROBKIN
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Attorneys for Petitioner

## CERTIFICATE OF COUNSEL

As counsel for the petitioner, I hereby certify that this petition for rehearing is presented in good faith and not for delay and is restricted to the grounds specified in Rule 58(2).

ALVIN J. KOROBKIN
Deputy Attorney General

Attorney for Petitioner